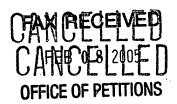


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ZIMMER TECHNOLOGY - BAKER & DANIELS 111 EAST WAYNE STREET, SUITE 800 FORT WAYNE, IN 46802



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In re Application of Dana Mears et al Application No. 10/053,931 Filed: January 22, 2002 Attorney Docket No. ZIM0048-02

:DECISION DISMISSING :PETITION TO WITHDRAW

FEB **0 8** 2005

:FROM ISSUE UNDER

OFFICE OF PETITIONS

:37 CFR 1.313((c)(2)

This is a decision on the petition, filed February 2, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **DISMISSED**.

37 CFR 1.313(c) provides that:

Once the issue fee has been paid, the application will not be withdrawn from issue upon petition by the applicant for any reason except:

- (1) Unpatentability of one of more claims, which petition must be accompanied by an unequivocal statement that one or more claims are unpatentable, an amendment to such claim or claims, and an explanation as to how the amendment causes such claim or claims to be patentable;
- (2) Consideration of a submission pursuant to 37 CFR 1.114; or
- (3) Express abandonment of the application. Such express abandonment may be in favor of a continuing application.

The instant petition fails to comply with item (2) above. In this regard, the petition requests withdrawal from issue "so that a supplemental declaration correcting a deficiency in the declaration previously filed in this matter can be submitted in this matter." However, as 37 CFR 1.114 requires a "submission," the petition cannot be granted until such time as a submission is received.

Petitioner is advised that any renewed petition for withdrawal from issue under 37 CFR 1.313(c)(2) with a "submission" must be received and granted by the deciding official's office prior to issuance in order to effectively withdraw the application from issue. Any renewed petition (with the submission) may be facsimile transmitted directly to the Office of Petitions at (571) 273-0025.

Any questions concerning this matter may be directed to the undersigned at (571) 272-3218.

Petitions Examiner

Office of Petitions

Office of the Deputy Commissioner

for Patent Examination Policy